



## INTERIOR BOARD OF INDIAN APPEALS

Ellen Wright v. Aberdeen Area Director, Bureau of Indian Affairs

17 IBIA 296 (09/21/1989)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

ELLEN WRIGHT

v.

ABERDEEN AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 89-69-A

Decided September 21, 1989

Appeal from a denial of technical assistance requested by an individual tribal member for revising the Lower Brule Tribal Constitution.

Affirmed.

1. Indians: Tribal Government: Generally

In furthering the doctrines of tribal sovereignty and self-determination, the Department of the Interior has recognized the right of Indian tribes to resolve their own internal disputes.

APPEARANCES: Ellen Wright, pro se.

## OPINION BY CHIEF ADMINISTRATIVE JUDGE LYNN

Appellant Ellen Wright seeks review of a March 22, 1989, decision of the Aberdeen Area Director, Bureau of Indian Affairs (BIA; appellee), denying her request for technical assistance for revising the Lower Brule Tribal Constitution. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

### Background

By letter dated March 10, 1989, and addressed to the Superintendent, Lower Brule Agency, BIA (Superintendent), appellant requested technical assistance from BIA to assist her and a group she represents in revising the constitution of the Lower Brule Sioux Tribe (tribe). Appellant stated that the first meeting of the committee to revise the constitution would be at her house and requested the attendance of a BIA representative.

On March 17, 1989, the Superintendent informed appellant that he would not be available to attend her committee meeting because of a previous commitment. He stated, however, that he had sent her request to the Area Office for further consideration. The Superintendent also noted that the tribal council had established a tribal constitutional revision committee and that, under BIA's government-to-government relationship, technical assistance for the revision of a tribal constitution was normally provided

only to the tribal government and its designated committees, not to individual tribal members. The Superintendent suggested that appellant and her committee attempt to work with the tribal council's committee in order to ensure that their concerns were addressed.

On March 22, 1989, appellee responded to appellant's March 10 letter, in accordance with the Superintendent's referral of that letter to the Area Office. Appellee declined to provide a BIA representative unless one was requested by the tribal council's committee.

Appellant's appeal from this decision was filed with appellee, who forwarded it to the Board in accordance with new appeals procedures for BIA and the Board, which took effect on March 13, 1989. See 54 FR 6478 and 6483 (Feb. 10, 1989). In its June 22, 1989, notice of docketing, the Board gave all parties an opportunity to file briefs with it. No briefs were filed.

### Discussion and Conclusions

Regulations in 25 CFR 81.4 provide for BIA technical assistance in revising a tribal constitution: "Representatives of the Department of the Interior will cooperate with and offer advice and assistance (including the proposing of amendments), to any tribe in drafting a constitution and bylaws, an amendment, a charter or charter amendment, or in revocation of constitutions." "Tribe" is defined in 25 CFR 81.1(w) to mean:

(1) Any Indian entity that has not voted to exclude itself from the Indian Reorganization Act[, 25 U.S.C. §§ 461-479 (1982),] and is included, or is eligible to be included, among those tribes, bands, pueblos, groups, communities, or Alaska Native entities listed in the Federal Register pursuant to § 83.6(b) of this chapter as recognized and receiving services from the Bureau of Indian Affairs; and (2) any group of Indians whose members each have at least one-half degree of Indian blood for whom a reservation is established and who each reside on that reservation. Such tribes may consist of any consolidation of one or more tribes or parts of tribes.

Both the Superintendent and appellee informed appellant that, under BIA's government-to-government relationship with tribes, technical assistance to revise a tribal constitution is normally provided only at the request of the tribal government or its duly appointed representatives.

Appellant's letters in this case indicate that she believes the tribal government is corrupt and that a constitutional revision is the only way in which this corruption can be remedied. She further suggests that the tribal constitutional revision committee was established to block her efforts to revise the constitution and that the committee membership was determined in a way that was intended to preclude her participation. Although BIA suggested that appellant attempt to work on or through the tribal committee to pursue her goals, the record does not indicate whether or not she made such an attempt or, if so, whether the attempt was or might be successful.

[1] The situation presented in this case is clearly an internal tribal dispute. The Board has frequently noted that in furthering the doctrines of tribal sovereignty and self-determination, the Department of the Interior has recognized the right of Indian tribes to resolve their own internal disputes. This is particularly true when, as here, tribal remedies have not been exhausted. See, e.g., Frease v. Sacramento Area Director, 17 IBIA 241 and 17 IBIA 250 (1989); Estate of Mary Dodge Peshlakai v. Navajo Area Director, 15 IBIA 24 (1986); Pueblo of Zuni Concerned Community Citizens Committee v. Acting Deputy Assistant Secretary--Indian Affairs (Operations), 14 IBIA 30 (1986).

By denying appellant's request for technical assistance while also indicating that such assistance would be provided if requested by the tribe, BIA has refrained from interposing itself in the tribe's internal political affairs and has allowed the tribe an opportunity to resolve its own disputes without outside interference. Under the circumstances of this case, BIA appropriately refrained from providing technical assistance to appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the March 22, 1989, decision of the Aberdeen Area Director is affirmed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

I concur:

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//original signed  
Anita Vogt  
Administrative Judge